

Robert A. Dybing, Esq. (VSB #32712)
THOMPSONMcMULLAN P.C.
100 Shockoe Slip
Richmond, Virginia 23219
Telephone: (804) 649-7545
Facsimile: (804) 780-1813
Email: rdybing@t-mlaw.com

Christopher R. Belmonte, Esq. (CB-2163)
SATTERLEE STEPHENS BURKE
& BURKE LLP
230 Park Avenue
New York, New York 10169
Telephone: (212) 818-9200
Facsimile: (212) 818-9606
Email: cbelmonte@ssbb.com

Attorneys for International Business
Machines Corp. and IBM Credit LLC

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

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In re:	: Chapter 11
	:
CIRCUIT CITY STORES, INC., <u>et al.</u> ,	: Case No. 08-35653 (KRH)
	:
Debtors.	: (Jointly Administered)
-----X	

**RESPONSE OF INTERNATIONAL BUSINESS MACHINES
CORP. TO DEBTORS' FORTY-SECOND OMNIBUS OBJECTION
TO CLAIMS FILED BY INTERNATIONAL BUSINESS
MACHINES CORP. AND BY IBM CREDIT, LLC
(DISALLOWANCE OF CERTAIN AMENDED CLAIMS)**

International Business Machines Corporation ("IBM"), as and for its
response to the Debtors' Forty-Second Omnibus Objection to Claims filed by IBM and
by IBM Credit, LLC ("ICC") (Disallowance of Certain Amended Claims), dated

September 21, 2009 [Docket No. 5015] (the “Claims Objection”), respectfully states as follows:

1. By the Claims Objection, Circuit City Stores, Inc. and its subsidiary debtors and debtors in possession in the above-captioned cases (collectively, the “Debtors”) seek to disallow certain claims as “moot and superseded” by subsequent “amending” claims. Claims Objection, ¶11. The Debtors object to such amended claims as being “repetitive” and seek to disallow the amended claims and to allow the amending claims as the “Surviving Claims”, which “shall remain in effect and are not affected by this Objection.” Claims Objection, ¶12.

2. More specifically, with respect to IBM, the Debtors seek to disallow Claim No. 11995, a general unsecured claim in the amount of \$20,747,743.01, and to allow Claim No. 14588, a general unsecured claim in the amount of \$19,832,769.28, to remain in effect as the “Surviving Claim.”¹ Claims Objection, Exhibit C, p. 58. The Debtors further seek to disallow Claim No. 13551, a general unsecured claim in the amount of \$37,860,457.00, and to allow Claim No. 14563, a general unsecured claim in the amount of \$44,966,364.00, to remain in effect as the “Surviving Claim.” Claims Objection, Exhibit C, p. 59.

3. With respect to ICC, the Debtors seek to disallow Claim No. 5336, a general unsecured claim in the amount of \$12,082,963.00, and to allow Claim No. 14492, a general unsecured claim in the amount of \$8,444,916.00, to remain in effect as the “Surviving Claim.” Claims Objection, Exhibit C, p. 59. The Debtors further seek to

¹ Claim No. 11995 amended an earlier claim of IBM, Claim No. 5665, a general unsecured claim in the amount of \$16,968,647.55, which earlier claim was the subject of the Debtors’ Twenty-Eighth Omnibus Objection to Claims (Disallowance of Certain Amended Claims), dated July 24, 2009 [Docket No. 4277]. Claim No. 5665 ultimately was disallowed and survived by Claim No. 11995.

disallow Claim No. 13630, an administrative expense claim in the amount of \$328,490.79, and to allow Claim No. 14493, an administrative expense claim in the amount of \$3,966,537.79, to remain in effect as the “Surviving Claim.”² Claims Objection, Exhibit C, p. 59.

4. IBM and ICC have no objection to the relief sought by the Claims Objection to the extent that their respective amended claims (Claim Nos. 11995, 13551, 5336, and 13630 or, collectively, the “Amended Claims”) are disallowed, and the amending claims (Claim Nos. 14588, 14563, 14492, and 14493 or, collectively, the “Surviving Claims”) survive and are in no way affected by the Claims Objection, as set forth therein.

5. However, it should be noted that the documentation serving as the basis for the Amended Claims also supports the Surviving Claims. Accordingly, when filing the Surviving Claims, to avoid duplicating and filing the same voluminous documents previously filed, IBM and ICC specifically requested in certain instances that the DVDs filed in connection with the Amended Claims and containing such supporting documentation be retained and, consequently, incorporated as part of the Surviving Claims.

6. Therefore, while the Amended Claims may be disallowed by virtue of the Claims Objection, it is respectfully submitted that the respective DVDs and documentation filed in support of such claims apply to, and are part of, the Surviving Claims and should not be disallowed, deleted and/or expunged as part of the relief sought

² Notably, on or about August 5, 2009, ICC filed an Amendment to Administrative Expense Requests, which was designated as Claim No. 14543 by the Debtors’ Claims Agent. The Claims Objection does not affect, and seeks no relief, with respect to Claim No. 14543.

by the Claims Objection. The DVDs and the documents contained thereon shall remain in full force and effect as part of the Surviving Claims.

7. IBM and ICC respectfully reserve their right to utilize the information and documentation contained on the previously filed DVDs in support of any action or matter pertaining to the Surviving Claims.

Dated: Richmond, Virginia
October 26, 2009

INTERNATIONAL BUSINESS
MACHINES CORPORATION

By: /s/ Robert A. Dybing

Robert A. Dybing (VSB No. 32712)
Robert R. Musick (VSB No. 48601)
ThompsonMcMullan, P.C.
100 Shockoe Slip
Richmond, Virginia 23219
Telephone: (804) 649-7545
Facsimile: (804) 780-1813
rdybing@t-mlaw.com
bmusick@t-mlaw.com

and

SATTERLEE STEPHENS BURKE
& BURKE LLP
Christopher R. Belmonte (CB-2163)
Pamela A. Bosswick (PB-5307)
Abigail Snow (AS-2960)
230 Park Avenue
New York, New York 10169
(212) 818-9200
*Counsel for International Business Machines
Corporation and IBM Credit LLC*

CERTIFICATE OF SERVICE

I hereby certify that on the 26th day of October, 2009, I caused a copy of the foregoing to be filed electronically. Notice of this filing will be sent to all parties on the

Court's Electronic Mail Notice List by operation of the Court's CM/ECF system. In addition, copies were served via first class mail, postage prepaid, to the persons required to be served pursuant to the Procedures Order in this case.

Reginald D. Hedgebeth
Daniel W. Ramsey
Circuit City Stores, Inc.
9950 Mayland Drive
Richmond, VA 23233

Gregg M. Galardi, Esquire
Ian S. Fredericks, Esquire
Skadden, Arps, Slate, Meagher & Flom, LLP
One Rodney Square
P.O. Box 636
Wilmington, DE 19899-0636
Counsel to Debtors

Timothy G. Pohl, Esquire
Chris L. Dickerson, Esquire
Skadden, Arps, Slate, Meagher & Flom, LLP
333 West Wacker Drive, Suite 2000
Chicago, IL 60606
Counsel to Debtors

Dion W. Hayes, Esquire
Douglas M. Foley, Esquire
McGuire Woods, LLP
One James Center
901 East Cary Street
Richmond, VA 23219
Counsel to Debtors

Robert B. Van Arsdale, Esquire
Office of the United States Trustee
701 East Broad Street, Suite 4304
Richmond, VA 23219-1888
Assistant United States Trustee

INTERNATIONAL BUSINESS
MACHINES CORPORATION and IBM
CREDIT LLC

By: /s/ Robert A. Dybing

Robert A. Dybing (VSB No. 32712)
Robert R. Musick (VSB No. 48601)
ThompsonMcMullan, P.C.
100 Shockoe Slip
Richmond, Virginia 23219
Telephone: (804) 649-7545
Facsimile: (804) 780-1813
rdybing@t-mlaw.com
*Counsel for International Business Machines
Corporation and IBM Credit LLC*